

Chapter 52

BUILDING CONSTRUCTION

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**[HISTORY: Adopted by the Town Board of the Town of Elma as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I
Building Construction Requirements
[Adopted 5-10-1946 by Ord. No. 1; amended in its entirety 9-22-1954]

§ 52-1. Scope.

It is the intent and purpose of this article to set certain minimum requirements for the construction of:

- A. New buildings for residential, commercial or industrial purposes.
- B. Additions to or conversions of existing buildings to be used for residential, commercial or industrial purposes in the Town of Elma.

§ 52-2. Application for construction of or conversion to residential buildings.

Any person, persons or corporation desiring to construct a new residential building or to add to an existing residential building or to convert to a residential building, in the Town of Elma, shall make written application, in duplicate, to the Town Clerk of said Town upon forms supplied by the Clerk. Such forms shall contain the name of the applicant, the name of the architect, if any, the name of the builder and the full name and address of the owner of the property or agent. Each application shall state the estimated cost of the undertaking and shall be accompanied by drawings showing the size of the lot or lots on which it is proposed to build, with floor plans and elevations of the building or buildings, indicating overall dimensions, location of various partitions, windows, doors and chimneys, the purpose of rooms, together with a written description of the type of construction, grade of materials and the finish to be used. The application shall also be accompanied by a further form and a drawing to be submitted to the Health Officer for his approval, showing construction or method of sewage disposal, except when located within an approved sanitary sewage disposal district.

§ 52-3. Building permit fees. [Amended 3-7-1979]

Any person desiring a building permit shall, at the time of filing an application therefor, as provided in this article, pay to the Town Clerk a fee or fees as fixed by resolution of the Town Board from time to time.

§ 52-4. Recreation filing fee. [Added 10-19-1988¹]

- A. A recreation filing fee shall be paid by the building permit applicant with each residential building permit application, or in the alternative, at the option of the Town Board, upon the recommendation of the Planning Board, the Town may accept a contribution of land by a subdivision applicant or developer for future development of recreational area in lieu of per lot or unit charge.
- B. The amount to be charged as a recreation filing fee, pursuant to this section, shall be determined from time to time by resolution of the Town Board.

§ 52-5. Issuance of building permits.

- A. Every application shall be verified by the owner or his agent. Upon receipt of the applications by the Town Clerk, accompanied by the required fees, the duplicate copy shall immediately be turned over to the Building Inspector. If, in the judgment of the Building Inspector, the application indicates that the contemplated construction will comply with the requirements of this article, or any amendments thereto which may hereafter be enacted by the Town of Elma, and the laws of the State of New York, the Building Inspector shall issue a permit to the applicant for the erection of the building and file the application and a copy of the permit with the Town Clerk.

1. Editor's Note: This ordinance also provided that the remaining sections of this article be renumbered accordingly.

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 B. In addition, every such application shall contain plans showing the location of all downspouts, sump pump discharge and any other discharge other than sewerage discharge and how such discharges would be located on, and disposed of on, the premises for which a permit is sought. Such plans must be approved by both the Town Engineer and the Building Inspector and the work satisfactorily completed before a certificate of occupancy shall be issued. Plans for such discharge disposal shall take into consideration the ultimate disposal of such discharges and the ability of the final discharge point to carry the discharges and shall, in addition, minimize surface runoff onto adjacent properties. Such plans shall conform to any stormwater pollution plan approved by the Town for the project in accordance with Chapter 120 of this Code. **[Added 7-15-1981; amended 4-15-2015 by L.L. No. 2-2015]**

§ 52-6. Appeal upon denial of permit; fee. [Amended 3-7-1979]

If the Building Inspector denies the application by reason of nonconforming lot, land usage or construction or for any other reason, then the applicant may file an appeal to the Zoning Board of Appeals. Appeal applications may be obtained from the Building Inspector or Town Clerk, and a fee, to be fixed by resolution of the Town Board from time to time, must be paid to the Town Clerk for each application. The Town Clerk shall forward an appeal application to the Chairman of the Board of Appeals, together with a notation of payment of fee.

§ 52-7. Appointment of Building Inspector.²

The Town Board, upon approval and passage of this article, shall forthwith appoint a Building Inspector, whose term of office shall expire on December 31, 1954, unless sooner removed by the Town Board. At the first annual meeting of the Town Board on each succeeding year thereafter, a Building Inspector shall be appointed for a term of one year unless sooner removed by the Town Board.

§ 52-8. Inspection of buildings; condemnation of noncomplying buildings; penalty for removal of condemnation notice.

- A. The Building Inspector shall inspect all buildings covered by this article at the time of their construction and shall notify the Town Board of any noncompliance with the code in the construction of such buildings.
- B. The Building Inspector shall thereupon condemn and prohibit the use of such buildings and shall notify the owner of such condemnation and shall cause notice of such condemnation to be posted conspicuously on such building. The Building Inspector is authorized to issue stop-work orders for violations of the Town Building Code at any stage of construction if, in the Building Inspector's opinion, noncompliance with the Building Code at that stage of construction could adversely affect public health or safety or soundness of the building, or such violation may be difficult or impossible to reinspect for compliance if construction continues. **[Amended 7-3-1996]**
- C. The removal of such posted condemnation notice without the consent of the Town Board shall be a violation punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both. **[Amended 6-3-1981]**
- D. The condemnation notice shall be removed at the direction of the Town Board upon written receipt from the Building Inspector that the building has been reconstructed to comply with this code.

§ 52-9. Penalties for offenses. [Added 6-3-1981]

- A. A person erecting a building, as set forth in § 52-1 without a permit shall be guilty of a violation, punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both.
- B. Any person, firm, association or corporation charged with violating any provision of this Building Code shall

2. Editor's Note: This section has been superseded by Art. 75 of the Civil Service Law.
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§ 52-9 be notified, in writing, to be served personally or by registered or certified mail, return receipt requested, upon the same, and any person, firm, association or corporation refusing, failing or neglecting to obey said notice of violation within five days after such written notice shall have been served shall, for each and every violation and for each and every day such violation continues beyond such five-day period, be guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment for a period not to exceed 30 days, or both. Each week's continued violation thereafter shall constitute a separate additional violation. [Amended 3-7-1984] § 52-13

§ 52-10. Adoption of State Building Code.

The Town of Elma hereby adopts the State of New York Building Construction Code and accepts the applicability of the State Building Construction Code for the Town of Elma of the County of Erie of the State of New York in accordance with the provisions of § 374-a of the Executive Law. The Elma Town Clerk be and hereby is instructed to file a certified copy of this section in the principal office of the State Building Code Commission at 1740 Broadway, New York, 19, New York, and in the office of the Secretary of State at Albany, New York.

§ 52-11. Use of spruce in construction. [Added 1-2-1984 by L.L. No. 1-1984]

Notwithstanding the provisions of § 52-10 of this article, and in accordance with the provisions of § 379, Subsection 1, of the Executive Law, the use of spruce material or a combination of pine/spruce/fir, known in the construction trade as "SPF," shall not be permitted in all construction in the Town of Elma, and the Building Inspector shall not hereafter issue building permits for structures containing such materials.

§ 52-12. Exceptions. [Added 11-4-1987 by L.L. No. 3-1987]

- A. Notwithstanding the provisions of § 52-11 of this Code, spruce and SPF material may be used in the construction of buildings and structures not intended for residential use.
- B. For the purposes of this section, "residential use" shall include not only a dwelling, but also any portion of a structure attached to a dwelling, except decking.

§ 52-13. Use of wood foundations. [Added 3-5-1986 by L.L. No. 1-1986]

Notwithstanding any other provision of this Code or of the State Fire Prevention and Building Code or of any other statute, rule or regulation, wood foundations shall be permitted in the Town of Elma only upon compliance with the following conditions:

- A. For structures of not more than two stories in height.
- B. The applicant for a building permit must submit with his application, in addition to all other required data and documents, a report prepared by a qualified soils engineer or soil scientist showing the type of soil within the plot sight, its structural performance, drainage characteristics, frost heave potential and volume change potential expansion.
- C. The data listed in Subsection B must indicate that the soil on the plot is adequate for the structure proposed with respect to design loads. Design loads from the American National Standards Institute Standard A58.1-1972 or other nationally recognized design reference shall be used as a guide.
- D. The entire foundation shall be erected pursuant to any New York State recognized standard generally accepted in the construction industry, and the application for a building permit shall indicate the standard being followed.
- E. In the event that the Building Inspector is required to make more inspections than normally required during the course of construction, an additional inspection fee, to be fixed from time to time by resolution of the Town Board, may be assessed by the Building Inspector, not to exceed the sum of \$100. All fees must be paid before a certificate of occupancy is issued.

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F. Before issuing a building permit for a structure having a wood foundation, the Building Inspector must be satisfied that the person who will install said foundation has sufficient experience and skill to properly do so.

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§ 52-14. Roof and floor sheathing. [Added 4-15-1987 by L.L. No. 1-1987]

In any construction in the Town of Elma, roof sheathing shall consist of not less than one-half-inch plywood, and floor sheathing shall consist of not less than five-eighths-inch plywood. Aspenite, flake board and like materials shall not be used.

ARTICLE II
Administration and Enforcement
[Adopted 2-22-2023 by L.L. No. 1-2023]

§ 52-15. Purpose and intent.

This article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town of Elma. This article is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this article, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this article.

§ 52-16. Definitions.

In this article, the following terms shall have the meanings shown in this section:

ASSEMBLY AREA — An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering 50 or more persons for uses, including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

BUILDING PERMIT — A building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term "building permit" shall also include a building permit which is renewed, amended, or extended pursuant to any provision of this article.

CERTIFICATE OF COMPLIANCE — A document issued by the Town of Elma stating that work was done in compliance with approved construction documents and the codes.

CERTIFICATE OF OCCUPANCY — A document issued by the Town of Elma certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town of Elma, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 52-17B of this article.

CODE ENFORCEMENT PERSONNEL — Includes the Code Enforcement Officer and all inspectors.

CODES — The Uniform Code and Energy Code.

ENERGY CODE — The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

FCNYS — The 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION — An inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

HAZARDOUS PRODUCTION MATERIALS — A solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

INSPECTOR — An inspector appointed pursuant to § 101-17D of this article.

MOBILE FOOD PREPARATION VEHICLES — Vehicles that contain cooking equipment that produces smoke

§ 52-16 or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles. § 52-17

OPERATING PERMIT — A permit issued pursuant to § 52-24 of this article. The term "operating permit" shall also include an operating permit which is renewed, amended, or extended pursuant to any provision of this article.

ORDER TO REMEDY — An order issued by the Code Enforcement Officer pursuant to § 52-31A of this article.

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — Includes an individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

PMCNYS — The 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

RCNYS — The 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

REPAIR — The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

STOP-WORK ORDER — An order issued pursuant to § 52-20 of this article.

SUGARHOUSE — A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

TEMPORARY CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to § 52-21D of this article.

TOWN — The Town of Elma.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

§ 52-17. Code Enforcement Officer and inspectors.

- A. The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this article. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of Occupancy, certificates of compliance, temporary certificates of Occupancy, and operating permits, and the plans, specifications, and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of Occupancy, certificates of compliance, temporary certificates of Occupancy, and operating permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate building permits, certificates of Occupancy, certificates of compliance, temporary certificates of Occupancy, and operating permits;
 - (3) To conduct construction inspections; inspections to be made prior to the issuance of certificates of Occupancy, certificates of compliance, temporary certificates of Occupancy, and operating permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this article;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to § 52-31A (Remedies, appearance tickets, penalties for offenses; injunctive relief) of this article;

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- (7) To maintain records;
 - (8) To collect fees as set by the Elma Town Board of this Town of Elma;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with the Elma Town attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this article, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this article; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.
- B. The Code Enforcement Officer shall be appointed by the Elma Town Board and Erie County Civil Service requirements. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
 - C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by Elma Town Board and Erie County Civil Service requirements to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.
 - D. One or more inspectors may be appointed Elma Town Board and Erie County Civil Service requirements to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this article. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
 - E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Elma Town Board.

§ 52-18. Building permits.

- A. Building permits required. A building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel-burning heating appliance, chimney, or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Town of Elma.
- B. This subsection is intentionally omitted.
- C. This subsection is intentionally omitted.
- D. Applications for building permits. Applications for a building permit shall be made, in writing, on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

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- (1) A description of the location, nature, extent, and scope of the proposed work;
- (2) The Tax Map number and the street address of any affected building or structure;
- (3) The occupancy classification of any affected building or structure;
- (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Describe the location, nature, extent, and scope of the proposed work;
 - (b) Show that the proposed work will conform to the applicable provisions of the codes;
 - (c) Show the location, construction, size, and character of all portions of the means of egress;
 - (d) Show a representation of the building thermal envelope;
 - (e) Show structural information, including, but not limited to, braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information;
 - (f) Show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
 - (g) Include a written statement indicating compliance with the Energy Code;
 - (h) Include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and
 - (i) Evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including, but not limited to, the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's certificate of Authorization number.

- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer, in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The

§ 52-18 Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. § 52-19

- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that 1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and 2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 52-32 (Fees) of this article must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

§ 52-19. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
 - (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Structural, electrical, plumbing, mechanical, fire protection, and other similar service systems of the building;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;

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- (8) Solid fuel-burning heating appliances, chimneys, flues, or gas vents;
 - (9) Inspections required to demonstrate Energy Code compliance, including, but not limited to, insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
 - (10) Installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
 - (11) A final inspection after all work authorized by the building permit has been completed.
- C. Remote inspections. At the discretion of the Code Enforcement Officer or inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized inspector sufficient information to make a determination, an in-person inspection shall be performed.
- D. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 52-32 (Fees) of this article must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 52-20. Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. Stop-work orders shall 1) be in writing; 2) be dated and signed by the Code Enforcement Officer; 3) state the reason or reasons for issuance; and 4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by [registered mail/certified mail].³ The Code Enforcement Officer shall be

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permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by [registered mail/certified mail];⁴ provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder, and any other person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the stop-work order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subdivision A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 52-31 (Remedies, appearance tickets, penalties for offenses; injunctive relief) of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 52-21. Certificates of occupancy and certificates of compliance.

- A. Certificates of occupancy and certificates of compliance required. A certificate of occupancy or certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or certificate of compliance.
- B. Issuance of certificates of occupancy and certificates of compliance. The Code Enforcement Officer shall issue a certificate of Occupancy or certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a certificate of Occupancy or certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of Occupancy or certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of Occupancy or certificate of compliance:
 - (1) A written statement of structural observations and/or a final report of special inspections;
 - (2) Flood hazard certifications;
 - (3) A written statement of the results of tests performed to show compliance with the Energy Code; and
 - (4) Where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.
- C. Contents of certificates of occupancy and certificates of compliance. A certificate of Occupancy or certificate of compliance shall contain the following information:

3. Editor's Note: So as in original.

4. Editor's Note: So as in original.

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- (1) The building permit number, if any;
- (2) The date of issuance of the building permit, if any;
- (3) The name (if any), address and Tax Map number of the property;
- (4) If the certificate of Occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of Occupancy or certificate of compliance is issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) The occupant load of the assembly areas in the structure, if any;
- (8) Any special conditions imposed in connection with the issuance of the building permit; and
- (9) The signature of the Code Enforcement Officer issuing the certificate of Occupancy or certificate of compliance and the date of issuance.

- D. Temporary certificate of occupancy. The Code Enforcement Officer shall be permitted to issue a temporary certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate of Occupancy unless the Code Enforcement Officer determines 1) that the building or structure, or the portion thereof covered by the temporary certificate of Occupancy, may be occupied safely, 2) that any required fire and life safety components, such as fire-protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and 3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a temporary certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure.
- E. A temporary certificate of Occupancy shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate of Occupancy. During the specified period of effectiveness of the temporary certificate of Occupancy, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- F. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of Occupancy, Certification of compliance, or a temporary certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 52-32 (Fees) of this article must be paid at the time of submission of an application for a certificate of Occupancy, certificate of compliance, or for temporary certificate of Occupancy.

§ 52-22. Notification regarding fire or explosion.

The chief of any fire department providing firefighting services for a property within this Town of Elma shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney, or gas vent.

§ 52-23. Unsafe buildings, structures, and equipment and conditions of imminent danger.

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Town of Elma shall be identified and addressed in accordance with the procedures established by Elma Town Code, Chapter 56, as now in effect or as hereafter amended from time to time.

§ 52-24. Operating permits.

- A. Operation permits required. Operating permits and or "Business use permits" as defined by Town of Code shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:
- (1) Manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;
 - (2) Buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
 - (a) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;
 - (b) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
 - (c) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
 - (d) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
 - (e) Chapter 31, "Tents, temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
 - (f) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
 - (g) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire by-products or operating a tire rebuilding plant;
 - (h) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
 - (i) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;
 - (j) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law § 270;
 - (k) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;

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- (l) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
- (m) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements established by Local Law Number [____ of ____], as now in effect or as hereafter amended from time to time.
- (3) Energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in Section R327.5 of the RCNYS.
- (4) Buildings containing one or more assembly areas;
- (5) Outdoor events where the planned attendance exceeds 1,000 persons;
- (6) Facilities that store, handle or use hazardous production materials;
- (7) Parking garages as defined in Subdivision A of § 52-27 of this article;
- (8) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Elma Town Board of this Town of Elma; and
- (9) Other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Elma Town Board.

Any person who proposes to undertake any activity or to operate any type of building listed in this Subdivision A shall be required to obtain an operating permit prior to commencing such activity or operation.

- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in Subsection A(1) through (7) of of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with § 52-25 (Fire safety and property maintenance inspections) of this article, and condition assessments are performed in compliance with § 52-27 (Condition assessments of parking garages) of this article, as applicable.

§ 52-25. Fire safety and property maintenance inspections.

- A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
 - (1) At least once every 12 months for buildings which contain an assembly area;
 - (2) At least once every 12 months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
 - (3) At least once every 36 months for multiple dwellings and all nonresidential occupancies.

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B. Remote inspections. At the discretion of the Code Enforcement Officer or inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized inspector sufficient information to make a determination, an in-person inspection shall be performed.

C. Inspections permitted. In addition to the inspections required by Subdivision A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector authorized to perform fire safety and property maintenance inspections at any time upon:

- (1) The request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

D. OFPC inspections. Nothing in this section or in any other provision of this article shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law § 156-e and Education Law § 807-b.

Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to §§ 807-a and 807-b of the Education Law and/or § 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an inspector, provided that:

- (1) The Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR Section 1203.2(e);
- (2) The Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;
- (3) Such inspections are performed no less frequently than once a year;
- (4) A true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and
- (5) Upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by § 52-31 (Remedies, appearance tickets, penalties for offenses; injunctive relief) of this article.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 52-32 (Fees) of this article must be paid prior to or at the time each inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 52-26. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this article, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 52-31 (Remedies, appearance tickets, penalties for offenses; injunctive relief) of this article;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 52-27. Condition assessments of parking garages.

- A. Definitions. For the purposes of this section:

CONDITION ASSESSMENT — An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure.

DETERIORATION — The weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component.

PARKING GARAGE — Any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (1) Buildings in which the only level used for parking or storage of motor vehicles is on grade;
- (2) An attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
- (3) A townhouse unit with attached parking exclusively for such unit.

PROFESSIONAL ENGINEER — An individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations.

RESPONSIBLE PROFESSIONAL ENGINEER — The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term "responsible professional engineer" shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

UNSAFE CONDITION — Includes the conditions identified as "unsafe" in Sections 304.1.1, 305.1.1, and 306.1.1 of the PMCNYS.

UNSAFE STRUCTURE — A structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is

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of such faulty construction or unstable foundation, that partial or complete collapse is possible.

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- B. Condition assessments — GENERAL REQUIREMENTS — The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in Subsection C of this section, periodic condition assessments as described in Subsection of this section, and such additional condition assessments as may be required under Subsection E of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Town of Elma, in accordance with the requirements of Subsection F of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.
- C. Initial condition assessment. Each parking garage shall undergo an initial condition assessment as follows:
- (1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
 - (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
 - (a) If originally constructed prior to January 1, 1984, then prior to October 1, 2019;
 - (b) If originally constructed between January 1, 1984, and December 31, 2002, then prior to October 1, 2020; and
 - (c) If originally constructed between January 1, 2003, and August 28, 2018, then prior to October 1, 2021.
 - (3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to not more than six months after the effective date of this article.
- D. Periodic condition assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three years.
- E. Additional condition assessments.
- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under Subsection C of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
 - (2) If the Town of Elma becomes aware of any new or increased deterioration which, in the judgment of the Town of Elma, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under Subsection C of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town of Elma to be appropriate.
- F. Condition assessment reports. The responsible professional engineer shall prepare, or directly supervise the

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preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town of Elma within 30 days of inspection. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (1) An evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) An evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) An evaluation and description of the unsafe conditions;
- (4) An evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- (5) An evaluation and description of the corrective options available, including the recommended time frame for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- (6) An evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
- (7) The responsible professional engineer's recommendation regarding preventative maintenance;
- (8) Except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
- (9) The responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

G. Review condition assessment reports. The Town of Elma shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town of Elma shall, by order to remedy or such other means of enforcement as the Town of Elma may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to Subsection F(2) and (3). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town of Elma to take any other enforcement action, including, but not limited to, suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

H. The Town of Elma shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town of Elma with a written statement attesting to the fact that he or she has been so engaged, the Town of Elma shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town of Elma shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available

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to the professional engineer.

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I. This section shall not limit or impair the right or the obligation of the Town of Elma:

- (1) To perform such construction inspections as are required by § 52-19 (Construction inspections) of this article;
- (2) To perform such periodic fire safety and property maintenance inspections as are required by § 52-25 (Fire safety and property maintenance inspections) of this article; and/or
- (3) To take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Town of Elma by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

§ 52-28. Climatic and geographic design criteria.

A. The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town of Elma as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

- (1) Design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
- (2) Heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
- (3) Flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
 - (a) The accompanying Flood Insurance Rate Map (FIRM);
 - (b) Flood Boundary and Floodway Map (FBFM); and
 - (c) Related supporting data along with any revisions thereto.

B. The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to Subdivision A of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

§ 52-29. Recordkeeping.

A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement personnel, including records of:

- (1) All applications received, reviewed and approved or denied;
- (2) All plans, specifications and construction documents approved;
- (3) All building permits, certificates of Occupancy, certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;

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- (4) All inspections and tests performed;
- (5) All statements and reports issued;
- (6) All complaints received;
- (7) All investigations conducted;
- (8) All condition assessment reports received;
- (9) All fees charged and collected; and
- (10) All other features and activities specified in or contemplated by §§ 52-18 through 52-28, inclusive, of this article.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 52-30. Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the Elma Town Board of this Town of Elma a written building permit report and summary conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 52-28 (Recordkeeping) of this article and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town of Elma, on a form prescribed by the Secretary of State, a report of the activities of this Town of Elma relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Town of Elma is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

§ 52-31. Remedies; appearance tickets; penalties for offenses; injunctive relief.

A. Orders to remedy.

- (1) The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this article. An order to remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this article; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this article which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

"The person or entity served with this order to remedy must completely remedy each violation described in this order to remedy by ____ [specify date], which is 30 days after the date of this order to remedy."

- (2) The order to remedy may include provisions ordering the person or entity served with such order to remedy 1) to begin to remedy the violations described in the order to remedy immediately, or within some other specified period of time which may be less than 30 days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying

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of all such violations within 30 days of the date of such order to remedy; and/or 2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this article or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the order to remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five days after the date of the order to remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the order to remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five days after the date of the order to remedy; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

- B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. Penalties. In addition to such other penalties as may be prescribed by state law,
 - (1) Any person who violates any provision of this article or any term, condition, or provision of any building permit, certificate of Occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be punishable by a fine of not more than \$250 per day of violation, or imprisonment not exceeding 15 days, or both; and
 - (2) Any person who violates any provision of the Uniform Code, the Energy Code or this article, or any term or condition of any building permit, certificate of Occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable to pay a civil penalty of not more than \$250 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town of Elma.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this Town of Elma, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this article, or any term or condition of any building permit, certificate of Occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit, order to remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this article, or any stop-work order, order to remedy or other order obtained under the Uniform Code, the Energy Code or this article, an action or proceeding may be commenced in the name of this Town of Elma, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Code Enforcement Officer/Elma Town Board of this Town of Elma.
- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 52-20 (Stop-work orders) of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 52-20 (Stop-work orders) of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of

§ 52-31 the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether § 52-35
prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the
Executive Law.

§ 52-32. Fees.

A fee schedule shall be established by resolution of the Elma Town Board of this Town of Elma. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of Occupancy, certificates of compliance, temporary certificates, operating permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.

§ 52-33. Intermunicipal agreements.

The Elma Town Board of this Town of Elma may, by resolution, authorize the Code Enforcement Officer of this Town of Elma to enter into an agreement, in the name of this Town of Elma, with other governments to carry out the terms of this article, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

§ 52-34. Partial invalidity.

If any section of this article shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this article.

§ 52-35. When effective.

This article shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.